

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER: 453-05-0578.M2

NOTICE OF INDEPENDENT REVIEW DECISION

September 3, 2004

**Re: IRO Case # M2-04-1633
IRO Certificate # 4599**

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Orthopedic Surgery and is a Fellowship-trained hand surgeon, and who has met the requirements for the TWCC Approved Doctor List or who has been granted an exception from the ADL. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed services
2. Denial letters
3. SOAH order
4. Carrier summary for IRO 8/12/04
5. Letter from hand surgeon 3/5/03
6. TWCC 69s and medical evaluations
7. Physical medicine and rehabilitation consultation report 3/30/04
8. Hand surgeon's notes 2003
9. Consultation and EMG evaluation 10/31/03
10. EMG/NCS report 1/28/03
11. Nerve conduction report 2/21/04

History

The patient is a 40-year-old female who developed pain and right wrist numbness and burning pain in her right elbow and right lower arm after repetitive elbow and wrist flexion activities. The patient performed forceful gripping and repetitive elbow flexion and extension using a blunt pizza cutter cutting pizza. The patient received extensive non-operative treatment, including physical therapy and chiropractic management, as well as non-operative care coordinated by a qualified hand surgeon. This included activity modifications, elbow extension and wrist extension splinting. The patient continued to have symptoms, and multiple nerve conduction studies were performed. These revealed compressive neuropathy of the ulnar and median nerves at the elbow and wrist. Failing extensive conservative management, surgical decompression of the ulnar nerve and median nerve was requested and denied multiple times. A SOAH hearing was conducted with no representative for the patient. An occupational and pain management physician who does not perform carpal tunnel surgery or ulnar nerve surgery represented the carrier at the hearing. The physician stated that when she examined the patient in May 2002, the patient had expansive right upper extremity complaints, and her medical examination showed no findings of numbness or tingling in the hand. The physician also stated that the MRI evaluation of the elbow and wrist was negative, and that electrodiagnostic testing was inconclusive. The physician testifying for the carrier further stated that if the patient had ulnar neuritis from the ___ injury, there would have been evidence of it in May 2002, and that such evidence would consist of atrophy or changes in the digits.

Requested Service(s)

Right wrist surgery

Decision

I strongly disagree with the carrier's decision to deny the requested surgery.

Rationale

Unfortunately, the patient was not adequately represented at the SOAH hearing. The physician who testified for the carrier was not qualified to make surgical decisions regarding carpal tunnel release or ulnar nerve transposition. For example, her statement that the MRI was negative was completely irrelevant to the patient's condition. MRIs are not helpful in diagnosing or treating ulnar or median neuropathy. The physician stated that if the patient had ulnar neuropathy, she would have had atrophy or changes in her digits. If the physician treated ulnar neuropathy from a surgical standpoint, she would understand that this would represent severe Stage III disease. Ulnar neuropathy should never be treated conservatively until it gets to Stage III because at that point the patient has suffered irreversible nerve damage. A recent article in the *Journal of Hand Surgery* has demonstrated that patient's with Stage I disease are the best surgical candidates for an ulnar nerve transposition. Stage I disease would consist of symptoms only. Stage I patients would have positive provocative tests, such as this patient has, with negative nerve conduction testing, and no atrophy. The physician representing the carrier stated that the nerve conduction studies were inconclusive. The physician may have been referring to the first tests, which were not very good. However, multiple other tests have demonstrated moderate to severe ulnar and median neuropathy. These tests are in no way inconclusive. The physician also stated that because the patient is no longer exposed to pizza cutting action, her injury should have resolved after discontinuation. This is false. Compressive neuropathy does not always resolve after discontinuation of the initiating event. Unfortunately, this patient has suffered a severe delay in her care, and now the records indicate that the patient has Stage II compressive neuropathy. Hand surgeons have documented the work related causation of the patient's compressive neuropathy.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744
Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

Sincerely,

In accordance with Commission Rule 102.4 (b), I hereby certify that a copy of this Independent Review Organization (IRO) decision was sent to the carrier and the requestor or claimant via facsimile or US Postal Service from the office of the IRO on this 7th day of September 2004.